

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 02-25-05.

Dates of service 02-16-04 through 02-23-05 were untimely filed per Rule 133.308(e)(1) and will not be part of the review.

The IRO reviewed office visit, therapeutic exercises, manual therapy technique, neuromuscular re-education and electrical stimulation rendered from 02-25-04 through 05-12-04 that were denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 03-17-05, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

CPT code 99455-WP-V3 date of service 04-22-04 denied with denial code "V" (unnecessary treatment with peer review). Per Rule 134.202(E)(6)(B)(iii) CPT code 99455-WP-V3 is not subject to an IRO review. CPT code 99455-WP-V3 is a DOP code and the insurance carrier will reimburse the lesser of the billed charge, or the MAR. CPT codes for which no reimbursement is listed (DOP) shall be reimbursed at the fair and reasonable rate. Relevant information (i.e. redacted EOBs-with same or similar services showing amount billed is fair and reasonable) were not submitted by the requestor to confirm that \$415.21 is their usual and customary charge for this service. No reimbursement is recommended. A Compliance and Practices referral will be made as the carrier is in violation of Rule 134.202(E)(6)(B)(iii).

This Findings and Decision is hereby issued this 18th day of April 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO Decision



7600 Chevy Chase, Suite 400
Austin, Texas 78752
Phone: (512) 371-8100
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NOTICE OF INDEPENDENT REVIEW DECISION

Date: April 15, 2005

To The Attention Of:

TWCC
7551 Metro Center Drive, Suite 100, MS-48
Austin, TX 78744-16091

RE: Injured Worker:

MDR Tracking #: M5-05-1785-01

IRO Certificate #: 5242

Forté has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to Forté for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

Forté has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Submitted by Requester:

- Medical records of Dr. Martinez dates inclusive 8/8/03 through 8/23/04
- IRO decision of 10/4/04
- Medical records of Dr. Race dated 8/6/03 and 11/11/03
- Medical records of Dr. Milney dated 2/12/04
- Medical records of Dr. Pugh date 5/13/03 and 5/27/03
- MRI of the right knee dated 5/22/03
- Medical records of Dr. Winer dates inclusive 5/29/03 through 7/28/03
- Medical records of Fidel Valencia, P.T. dated 7/7/03
- Medical records of Dr. McMillan dates inclusive 7/17/03 through 9/29/04

- Medical records of Clay Meekan, LPT dates inclusive 8/1/03 through 3/15/04
- Medical records of Dr. Jaromelik dates inclusive 8/14/03 through 8/30/04
- Medical records of Dr. Nguyen dated 10/9/03
- Medical records of Dr. Kahn dated 1/26/04 and 2/18/04
- Medical records of Dr. Walter dated 2/14/04 and 5/5/04
- Medical records of Dr. Turvoff dated 4/27/04
- Medical records of Dr. Kovel, dates inclusive 8/5/04 through 10/7/04

Submitted by Respondent:

- Medical records of Dr. Race dated 8/6/03 and 11/11/03
- Medical records of Dr. Milney dated 2/12/04

Clinical History

The claimant is a 20 year old Hispanic male employed as an electrician's assistant for the Brown Construction Company of Houston, Texas. Reportedly on ____, while performing his usual duties the claimant stepped onto a pipe, lost his footing and twisted his right knee. An MRI on 10/20/03 was remarkable for a longitudinal tear of the posterior horn of medial meniscus of the right knee. The claimant was taken to arthroscopy on 6/18/03 by Dr. Winer at which time a meniscectomy was performed. The arthroscopy revealed a complete tear of the ACL. However, repair was not performed due to a lack of pre-authorization. The claimant proceeded to undergo post operative rehabilitation with Dr. Martinez, chiropractor. The attending utilized some 60 units of 101 therapeutic exercises, 30 units of manual therapy, 15, units of neuromuscular re-education, electric muscle stimulation and ultrasound following the surgical procedure. The claimant failed to progress and was once again taken to surgery for ACL reconstruction. The attending physician was Dr. Jarolimek. The procedure was performed on 10/15/03. The claimant was once again introduced to post operative rehabilitation under the auspices of Dr. Martinez. An additional 82 units of 101 therapeutic exercises were employed prior to the dates of dispute. An additional 20 units of manual therapy, 20 units of neuromuscular re-education and 19 units of electrical muscle stimulation were also employed prior to the dates in dispute. According to the medical the claimant underwent passive and active strengthening of the lower extremity, stationary bicycle, isokinetic circuit training, gym ball, Thera-Band and the Synergy system. This occurs on each date of service as does the previously noted passive modalities.

Requested Service(s)

Items in dispute include (99212) office visit, (97110) therapeutic exercises, (97140) manual therapy technique, (97112) neuromuscular re-education, (97032) electrical stimulation for disputed dates of service 2/25/04 through 5/12/04.

Decision

I must agree with the carrier's previous adverse determination regarding the disputed services noted above.

Rationale/Basis for Decision

Prior to the dates in dispute, the medical record reflects that the claimant had undergone some 142 units of one on one therapeutic exercise, 50 units of manual therapy, 35 units of neuromuscular re-education and similar multiple units of electrical muscle stimulation and ultrasound. With respect to the electrical muscle stimulation and ultrasound passive modalities postoperatively are not unreasonable; however this should be limited to 2 to 3 weeks of post operative care. The purpose of these modalities is to reduce soft tissue inflammation, muscle spasm and therefore pain. However, these are time limited modalities that are best addressed in the acute, inflammatory stage of soft tissue repair. With respect to the manual therapy as was noted by the previous IRO decision, these services were medically unnecessary, this due in part to a lack of documentation as to the services that were provided. I find nothing in the medical to educate me on the rationale for utilizing manual therapy or in what manner the technique may have been applied. With respect to the one on one therapeutic exercises and neuromuscular re-education, considering this claimant had some 48 hours of one on one active rehabilitation it would appear that by 2/25/04 he should have had a good working knowledge of a rehab program for the knee. Closed kinetic chain exercises are easily instructed to patients for home-based utilization. Certainly by 2/25/04 this claimant should have been well versed in a home exercise program. This is a more cost effective approach as is recommended by the TWCC treatment guidelines. This claimant could have easily been transitioned to a less intensely supervised exercise regimen. This approach results in functional independence, which is the ultimate goal of the system.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 15th day of April 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder